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October 7, 2010

EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation in MB Docket No. 10-56, *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses or Transfer Control of Licensees*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network ("DISH") submits the attached slides distributed at a meeting today with several Commission staffers regarding the proposed acquisition by Comcast Corporation ("Comcast") of NBC Universal ("NBCU"). The meeting included John Flynn, James Bird, Virginia Metallo, Joel Rabinovitz, and Michael Steffen of the Office of General Counsel; William Freedman, Marcia Glauberman, Judith Herman, Daniel Shiman, and Jennifer Tatel of the Media Bureau; Jonathan Baker, Chuck Needy, and Paul LaFontaine of the Office of Strategic Planning and Policy Analysis; and Erin McGrath of the Wireless Telecommunications Bureau. Present at the meetings on behalf of DISH were Jeff Blum, Alison Minea, and David Goodfriend. Also present were Simon Wilkie and Michael Williams, who prepared an economic report to support DISH's filings in the above-referenced proceeding.

During the meetings, we discussed potential harms to traditional and online video competition that would result from the combination of Comcast and NBCU. In particular, we emphasized that Comcast-NBCU's reply in the above-referenced proceeding fails to rebut adequately the fact that online video is a necessary complement to today's multichannel video programming distributors' ("MVPDs") products. Post-transaction, Comcast-NBCU will have a heightened incentive and ability to harm online video offerings of MVPD competitors by either (1) degrading or blocking online video content traveling on Comcast's High Speed Internet ("HSI") facilities, or (2) denying access to affiliated programming, including NBC and Universal Studios content, for online distribution, or only offering inferior quality versions of such programming. These same propensities also pose grave harm to innovation and competition by stifling the near-future emergence of online video programming distributors that will compete directly with traditional MVPDs. To address these potential harms, we reviewed with the staff DISH's proposed open Internet, broadband, and program access conditions.

Respectfully submitted,

/s/ Alison Minea
Alison Minea

cc: Jonathan Baker
James Bird
John Flynn
William Freedman
Marcia Glauberman
Judith Herman
Paul LaFontaine
Erin McGrath
Virginia Metallo
Chuck Needy
Joel Rabinovitz
Daniel Shiman
Michael Steffen
Jennifer Tatel

Enclosure

Comcast/NBCU Merger

Comments of Professor Simon J. Wilkie

October 2010

Anticompetitive Effects on the Online Video Market

- Anticompetitive effects of the merger likely would adversely affect the growth and development of the nascent market for online video programming distributor services.

- Comcast/NBCU merger likely would reduce pro-consumer technological innovation by providers of online video content.

- The merged Comcast/NBCU entity will have strong incentives to discriminate in favor of its own programming, regardless of whether online video content is a substitute or a complement to its services.

Price Effects of Comcast/NBCU Merger

- Comcast/NBCU will have an economic incentive to raise the price of stand-alone broadband service.

- This rise in price will harm consumers of stand-alone broadband service:

  - Some subscribers will drop their service;

  - Other subscribers will pay higher prices, including those who "cut the cord" to Comcast's bundled services; and

  - Competitive pressure offered by Internet Service Providers ("ISPs") will be reduced.

Economic Analysis of the Merger

- The merger will decrease Comcast's cost of providing cable services by lowering the cost of acquiring NBCU content and assets.

- Economic analysis demonstrates that this decrease in the cost of providing cable services will give the merged entity an economic incentive to increase the price of stand-alone broadband service.

- This demonstration is made using *comparative static analysis* – examining how a change in a market parameter (in this case the cost of providing cable services) affects market prices.

Increasing Choice to Lessen Harmful Effects

- Availability of sufficient neutral provider choices (such as independent ISPs) would allow consumers to “break the bundle.”
- A sufficient number of competitive choices would mitigate the harm to consumers who seek to remain with a stand-alone broadband provider.
- A greater choice of ISPs would facilitate the development of the nascent online video market.